

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

Blue Spike, LLC,

Plaintiff,

v.

TEXAS INSTRUMENTS, INC., et al.,

Defendants.

CASE NO. 6:12-cv-499 LED

LEAD CASE

Jury Trial Demanded

Blue Spike, LLC,

Plaintiff,

v.

PRECISE BIOMETRICS, INC. and
PRECISE BIOMETRICS AB,

Defendants.

CASE NO. 6:12-cv-694 LED

CONSOLIDATED CASE

Jury Trial Demanded

**PLAINTIFF'S REPLY IN RESPONSE TO
DEFENDANT PRECISE BIOMETRICS' COUNTERCLAIMS**

Plaintiff Blue Spike, LLC files this Reply to the Counterclaims of Precise Biometrics, Inc. and Precise Biometrics AB ("Precise Biometrics" or "Defendants") (Dkt. No. 368) as follows. All allegations not expressly admitted or responded to by Plaintiff are denied.

It appears that Defendants had considerable difficulty numbering the paragraphs of their Answer and Counterclaims properly, such that nearly every second paragraph is unnumbered (and therefore the paragraph numbers of their Answer don't match those of the Complaint). To correct for this, Plaintiff will designate every unnumbered paragraph in Defendants' Counterclaims as "1a," "2a," etc. and respond accordingly.

PARTIES

1. Plaintiff admits the allegations of Paragraph 1, upon information and belief.

- 1a. Plaintiff admits the allegations of Paragraph 1a, upon information and belief.
- 2. Plaintiff admits the allegations of Paragraph 2.

JURISDICTION AND VENUE

- 3. Plaintiff admits the allegations of Paragraph 3.
- 3a. Plaintiff admits the allegations of Paragraph 3a.
- 4. Plaintiff admits that it has consented to venue in this District, but denies the remainder of Paragraph 4.

**COUNT 1: DECLARATORY JUDGMENT OF
NON-INFRINGEMENT OF THE '175 PATENT**

- 5. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 4 above.
- 5a. Plaintiff admits the allegations of Paragraph 5a.
- 6. Plaintiff denies the allegations of Paragraph 6.
- 6a. Plaintiff denies the allegations of Paragraph 6a.

**COUNT 2: DECLARATORY JUDGMENT OF
INVALIDITY OF THE '175 PATENT**

- 7. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 6a above.
- 7a. Plaintiff admits the allegations of Paragraph 7a.
- 8. Plaintiff denies the allegations of Paragraph 8.
- 8a. Plaintiff denies the allegations of Paragraph 8a.

**COUNT 3: DECLARATORY JUDGMENT OF
NON-INFRINGEMENT OF THE '494 PATENT**

- 9. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 8a above.

9a. Plaintiff admits the allegations of Paragraph 9a.

10. Plaintiff denies the allegations of Paragraph 10.

10a. Plaintiff denies the allegations of Paragraph 10a.

**COUNT 4: DECLARATORY JUDGMENT OF
INVALIDITY OF THE '494 PATENT**

11. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 10a above.

11a. Plaintiff admits the allegations of Paragraph 11a.

12. Plaintiff denies the allegations of Paragraph 12.

12a. Plaintiff denies the allegations of Paragraph 12a.

**COUNT 5: DECLARATORY JUDGMENT OF
NON-INFRINGEMENT OF THE '700 PATENT**

13. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 12a above.

13a. Plaintiff admits the allegations of Paragraph 13a.

14. Plaintiff denies the allegations of Paragraph 14.

14a. Plaintiff denies the allegations of Paragraph 14a.

**COUNT 6: DECLARATORY JUDGMENT OF
INVALIDITY OF THE '700 PATENT**

15. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 14a above.

15a. Plaintiff admits the allegations of Paragraph 15a.

16. Plaintiff denies the allegations of Paragraph 16.

16a. Plaintiff denies the allegations of Paragraph 16a.

**COUNT 7: DECLARATORY JUDGMENT OF
NON-INFRINGEMENT OF THE '472 PATENT**

17. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 16a above.

17a. Plaintiff admits the allegations of Paragraph 17a.

18. Plaintiff denies the allegations of Paragraph 18.

18a. Plaintiff denies the allegations of Paragraph 18a.

**COUNT 8: DECLARATORY JUDGMENT OF
INVALIDITY OF THE '472 PATENT**

19. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 4 above.

19a. Plaintiff admits the allegations of Paragraph 19a.

20. Plaintiff denies the allegations of Paragraph 20.

20a. Plaintiff denies the allegations of Paragraph 20a.

EXCEPTIONAL CASE

21. Plaintiff denies the allegations of Paragraph 21.

PRAYER FOR RELIEF

Plaintiff denies that Defendant is entitled to any of the relief it requests.

PLAINTIFF'S PRAYER FOR RELIEF

In addition to the relief requested in Plaintiff's Original Complaint, Plaintiff respectfully requests a judgment against Defendant as follows:

- (a) That Defendant take nothing by its Counterclaims;
- (b) That the Court award Plaintiff its costs and attorneys' fees incurred in defending against these Counterclaims; and
- (c) Any and all further relief for the Plaintiff as the Court may deem just and proper.

Respectfully submitted,

/s/ Randall T. Garteiser

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CERTIFICATE OF SERVICE

I, Randall T. Garteiser, am the ECF User whose ID and password are being used to file this document. I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this day. Pursuant to Federal Rule of Civil Procedure 5, this document was served via U.S. Mail and electronic means to counsel for Defendant that are not receiving this document via CM/ECF.

/s/ Randall T. Garteiser
Randall T. Garteiser